THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on :19.07.2007

WP(C) No.7798/2001

DHARMENDER ...Petitioner

- versus -

UNION OF INDIA & OTHERS ...Respondents

Advocates who appeared in this case:
For the Petitioner : Mr Manjeet Singh with Mr Avtar Singh
For the Respondent No.4 : Mr Saran Suri

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

1. On 12.03.2007, when this matter had come up before this Court, it was felt that the presence of the counsel for the respondent No.3 would be necessary. Since nobody was present on behalf of the respondent No.3, the matter was directed to be renotified on 11.05.2007. On that day also nobody appeared on behalf of the respondent No.3. Consequently, this Court directed issuance of court notice to the counsel for the respondent No.3 to be present on the next date of hearing and the matter was adjourned to 19.07.2007 (i.e today). The said notice has been served, yet nobody appears on behalf of the

respondent No.3. Under these circumstances, this Court is left with no alternative but to proceed with the matter in the absence of the counsel for the respondent No.3.

2. The petitioner had applied in 1999 for the four-year certificate course of Aeronautical Engineering to be conducted by the respondent No.4 (Indian Institute of Aeronautical Engineering, Dehradun). The students who seek admission to respondent No.4 have to apply to respondent No.3, which examines the applications and clear students for admission. Thereafter, the training is imparted by the respondent No.4 in respect of the courses which are approved by the Government of India as per the prospectus.

3. As indicated above, the petitioner applied in 1999 and he was granted admission. Thereafter, the petitioner undertook the course of study at the respondent No.4 institute and he appeared in the two semesters in 1999-2000 as well as the third and fourth semester in 2000-2001. Subsequently, by a letter dated 21.08.2001, the respondent No.3 withheld the result of the petitioner for the December, 2000 examination and also indicated that his registration as a student with the respondent No.4 was suspended with immediate effect. The reason given in the said letter was that the petitioner has less than 50% marks in Chemistry as per the original mark-sheet produced

by him. The advice given in the letter was that the petitioner should clear the 10+2 examination in Chemistry with more than 50% marks and then only his membership would be revived.

4. The petitioner is aggrieved by the fact that for two years the petitioner was taking training at the respondent No.4 institute and one day, out of blue, the petitioner was told that his registration was suspended with immediate effect because he had obtained 1% less in his class 12 examination. The learned counsel for the petitioner submitted that the mark-sheet submitted by the petitioner at the time of seeking admission clearly indicated that he had obtained 49% marks in Chemistry. This fact was well known to the respondent No.3 and despite that the petitioner had been granted admission. Apart from that, the learned counsel for the petitioner also submitted that the only condition required and notified to the petitioner was that he should have passed the class 12 examination. No minimum percentage was prescribed by the respondent No.3.

5. The learned counsel for the respondent No.4 submits the institute only imparts training and it has nothing to do with the grant or refusal of admission and declaration of results because all those acts are under the purview and ambit of the respondent No.3. Accordingly, the learned counsel

for the respondent No.4 submitted that if the respondent No.3 gives them the go ahead, they shall be in a position to impart training to the petitioner. On the other hand, if they withhold the results or suspend a student, then they have no option but to abide by the directions of the respondent No.3.

6. Considering the facts and circumstances of the case, I am of the view that the petitioner had not suppressed any information from the respondent No.3 when the petitioner sought admission. He submitted his mark-sheet, which clearly indicated that he had obtained 49% marks in Chemistry. Knowing this fully well, the respondent No.3 granted admission to the petitioner. Not only this, the petitioner was allowed to continue with his training for two years at the respondent No.4 institute without any hindrance and only after he sat for his fourth semester examination, while he was pursuing his fifth semester, the petitioner was told that his registration was suspended because he had 1% less marks in Chemistry in the class 12 examination. I am afraid this is not an appropriate course of conduct on the part of the respondent No.3. This is apart from the fact that the minimum marks were not notified to the petitioner when he sought admission. The only criteria that was known to the petitioner was that he should have passed the class 12 examination conducted by CBSE. The petitioner having qualified in the class 12 examination conducted by CBSE, submitted his mark-sheet and on

the basis of which he was granted admission and registration. To my mind, this belated suspension of the registration of the petitioner's admission and withholding of his December, 2000 result was unwarranted. Requiring the petitioner to go back to school and to again reappear in his Chemistry paper is an absolutely unreasonable requirement. For all these reasons, I direct that the petitioner's result of December, 2000 be declared and the petitioner be reinstated for pursuing his course of study at the respondent No.4 institute with immediate effect.

This writ petition stands disposed of.

BADAR DURREZ AHMED
(JUDGE)

July 19, 2007
SR